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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,090	09/11/2003	Jay S. Schneider	08321-0113 USI	5901
23973	7590 08/15/2005		EXAM	INER
	BIDDLE & REATH	SPIVACK, P	SPIVACK, PHYLLIS G	
ONE LOGAN SQUARE 18TH AND CHERRY STREETS			ART UNIT	PAPER NUMBER
			1614	
PHILADELP	HIA, PA 19103-6996		DATE MAILED: 08/15/2009	5

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)			
Office Action Summary		10/660,090	SCHNEIDER, JAY S.			
		Examiner	Art Unit			
		Phyllis G. Spivack	1614			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1) Responsive to communication(s) filed on						
2a)□	This action is FINAL . 2b)⊠	This action is non-final.				
3)□						
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4)⊠	Claim(s) 1-42 is/are pending in the applica	ation.				
	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.						
6)□	6) Claim(s) is/are rejected.					
7)	7) Claim(s) is/are objected to.					
8)⊠	Claim(s) <u>1-42</u> are subject to restriction and	d/or election requirement.				
Application Papers						
9)	The specification is objected to by the Exa	miner.	•			
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachmen	t(s)					
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)						
	e of Draftsperson's Patent Drawing Review (PTO-948)/Mail Date formal Patent Application (PTO-152)			
	nation Disclosure Statement(s) (PTO-1449 or PTO/SI r No(s)/Mail Date	6) Other:	,, , , ,			

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to methods for treating Parkinson's disease comprising administering levodopa and a partial glycine agonist and, optionally, a peripheral decarboxylase inhibitor, classified in various subclasses of class 514, depending on the partial glycine agonist and optional peripheral decarboxylase inhibitor contemplated.
- II. Claims 16-28, drawn to methods for increasing the therapeutic index of levodopa comprising administering levodopa and a partial glycine agonist, optionally, a peripheral decarboxylase inhibitor, classified in various subclasses of class 514, depending on the partial glycine agonist and optional peripheral decarboxylase inhibitor contemplated.
- III. Claims 29-42, drawn to a kit comprising a partial glycine agonist, optionally further comprising levodopa and/or a peripheral dopa decarboxylase inhibitor, and a method of treating Parkinson's disease thereof, classified in various subclasses of class 514, depending on the partial glycine agonist and optional peripheral decarboxylase inhibitor contemplated.

The inventions are distinct, each from the other, for the following reasons:

Inventions I, II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In

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the instant case the disclosed partial glycine agonist, cycloserine, may be used in the treatment of tuberculosis.

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The Groups have acquired a separate status in the art as shown by their recognized, divergent subject matter. The searches required for each Group are not coextensive. Each Group is capable of supporting a separate patent. Thus restriction for examination purposes, as indicated, is proper.

Applicants are advised that to be complete, the reply to this requirement must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Where restriction between product and process claims is required, and Applicants elect claims directed to the product, if a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. Process claims that depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after Final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of In re Ochiai. In re Brouwer and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy. Applicants are advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the Examiner before the patent issues. See MPEP § 804.01.

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A telephone call to the attorney of record is not required where: 1) the restriction requirement is complex; 2) the application is being prosecuted *pro se*; 3) the Examiner knows from past experience that a telephone election will not be made. See MPEP 812.01.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached Monday to Friday from 10:30 AM to 7 PM.

If attempts to reach the Examiner by telephone are unsuccessful after one business day, the Examiner's supervisor, Chris Low, can be reached at 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 5 71-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phyllis G. Spivack Primary Examiner Art Unit 1614

'PHYLLIS SPIVACK PRIMARY EXAMINER